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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,410

07/12/2006

Wolfgang Kauss

127952

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07/16/2008

OLIFF & BERRIDGE, PLC

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ALEXANDRIA, VA 22320-4850

EXAMINER

UNDERWOOD, DONALD W

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

07/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,410	Applicant(s) KAUSS, WOLFGANG	
	Examiner Donald Underwood	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>052406</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The drawing is objected to under 37CFR1.84 as failing to contain lead lines for numerals 44 and 46 in figure 1. Correction is required. The introduction of new matter should be guarded against.

The specification is objected to as being in improper form. The reference to claim 1 on page 1, line 8, and on page 2, lines 30 and 31, in the disclosure is improper. The disclosure should support the claims and not vice versa. Correction is required. Also "14" in lines 23 and 26 on page 6 should be --16-- and "16" in line 31 on page 6 should be --4--. Finally the meaning of the phrase "attacks at" in line 25 on page 7 is unclear. Clarification is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are narrative in form since several of the elements are set forth in terms of operation rather than being structurally defined and related. For example the transmitting member is not structurally defined and related to the shovel and has only an operative connection with the actuation head which requires no particular connection rendering the claim indefinite. The claims are also indefinite since it is unclear whether the claims are combination claims including a control system, a shovel, a boom, a boom cylinder and a shovel cylinder or are subcombination claims including only a control

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system. This indefiniteness is caused by a recitation of an hydraulic control for a mobile equipment in the preamble, together with a seemingly positive recitation of equipment elements. Further the claims are incomplete. For example, note the phrase “may be reset” in the penultimate line of claim 1 set forth a desired result but no structure to provide the result. Finally claims 7 and 8 are further indefinite since “the lower” in claim 7 and “the pilot control device” in claim 8 lack clear antecedent basis.

The claims should be rewritten to include the essential elements of the invention and the elements should be correlated to define an operative device.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3 and 5-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by French, et al.

Note control device 62, transmitting means 114, 122, orientation device 124 and actuation head, i. e., the connection between 124 and 90.

Regarding claim 3, note 64 connects to a port and 70 is a port.

Regarding claim 5, note springs 126 and 148 (tensile spring).

Regarding claim 6, note actuation lever 82.

Regarding claim 8, note 64 in the reference connects to a port.

Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Seaberg, et al.

Note transmitting member 228, actuation head 226, 221 and lever 124 (claim 6) which can be used to fix the bucket angle.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Baum, et al.

Note transmitting member 50, 72 and control unit 56 comprising actuation head 82.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/Donald Underwood/
Primary Examiner, Art Unit 3652

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